

AMENDED IN SENATE APRIL 26, 2006

**SENATE BILL**

**No. 1179**

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**Introduced by Senator Morrow**

January 17, 2006

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An act to amend Section 831.7 of the Government Code, and to repeal and add Section 115800 of the Health and Safety Code, relating to recreational activities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1179, as amended, Morrow. Recreational activities: skateboarding.

Under existing law, public entities and public employees are generally not liable to any person who participates in various hazardous recreational activities, including bicycle racing or jumping and mountain bicycling.

This bill would add skateboarding to that provision of law.

Existing law, effective until January 1, 2008, provides that skateboarding at a public skateboard park is a hazardous recreational activity, if specified conditions are satisfied. That law, also in effect until January 1, 2008, requires local public agencies to maintain a record of all known or reported injuries incurred by skateboarders in a public skateboard park or facility, and other information regarding these incidents, as specified, and requires that copies of those records be filed annually with the Judicial Council, which is required to report to the Legislature on these incidents and any claims arising therefrom. Existing law also prohibits the operator of a skateboard park to permit a person to ride a skateboard in the park unless the person is wearing a helmet, elbow pads, and knee pads.

This bill would repeal those provisions. The bill would instead ~~grant local public agencies, as defined, that own or operate skateboard parks the authority to determine if helmets, knee pads, and elbow pads are an appropriate requirement for use by persons at skateboard parks, or specific areas thereof, which are within the local public agency's jurisdiction~~ *provide that the decision of a local public agency whether to regulate conditions of use at a public skateboard park does not alter a public entity or public employee's immunity from liability to persons who participate in certain hazardous recreational activities.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 831.7 of the Government Code is  
2 amended to read:

3 831.7. (a) Neither a public entity nor a public employee is  
4 liable to any person who participates in a hazardous recreational  
5 activity, including any person who assists the participant, or to  
6 any spectator who knew or reasonably should have known that  
7 the hazardous recreational activity created a substantial risk of  
8 injury to himself or herself and was voluntarily in the place of  
9 risk, or having the ability to do so failed to leave, for any damage  
10 or injury to property or persons arising out of that hazardous  
11 recreational activity.

12 (b) As used in this section, "hazardous recreational activity"  
13 means a recreational activity conducted on property of a public  
14 entity which creates a substantial (as distinguished from a minor,  
15 trivial, or insignificant) risk of injury to a participant or a  
16 spectator.

17 "Hazardous recreational activity" also means:

18 (1) Water contact activities, except diving, in places where or  
19 at a time when lifeguards are not provided and reasonable  
20 warning thereof has been given or the injured party should  
21 reasonably have known that there was no lifeguard provided at  
22 the time.

23 (2) Any form of diving into water from other than a diving  
24 board or diving platform, or at any place or from any structure  
25 where diving is prohibited and reasonable warning thereof has  
26 been given.

1 (3) Animal riding, including equestrian competition, archery,  
2 bicycle racing or jumping, mountain bicycling, boating,  
3 cross-country and downhill skiing, hang gliding, kayaking,  
4 motorized vehicle racing, off-road motorcycling or four-wheel  
5 driving of any kind, orienteering, pistol and rifle shooting, rock  
6 climbing, rocketeering, rodeo, skateboarding, spelunking, sky  
7 diving, sport parachuting, paragliding, body contact sports (i.e.,  
8 sports in which it is reasonably foreseeable that there will be  
9 rough bodily contact with one or more participants), surfing,  
10 trampolining, tree climbing, tree rope swinging, waterskiing,  
11 white water rafting, and windsurfing. For the purposes of this  
12 subdivision, “mountain bicycling” does not include riding a  
13 bicycle on paved pathways, roadways, or sidewalks.

14 (c) Notwithstanding the provisions of subdivision (a), this  
15 section does not limit liability which would otherwise exist for  
16 any of the following:

17 (1) Failure of the public entity or employee to guard or warn  
18 of a known dangerous condition or of another hazardous  
19 recreational activity known to the public entity or employee that  
20 is not reasonably assumed by the participant as inherently a part  
21 of the hazardous recreational activity out of which the damage or  
22 injury arose.

23 (2) Damage or injury suffered in any case where permission to  
24 participate in the hazardous recreational activity was granted for  
25 a specific fee. For the purpose of this paragraph, a “specific fee”  
26 does not include a fee or consideration charged for a general  
27 purpose such as a general park admission charge, a vehicle entry  
28 or parking fee, or an administrative or group use application or  
29 permit fee, as distinguished from a specific fee charged for  
30 participation in the specific hazardous recreational activity out of  
31 which the damage or injury arose.

32 (3) Injury suffered to the extent proximately caused by the  
33 negligent failure of the public entity or public employee to  
34 properly construct or maintain in good repair any structure,  
35 recreational equipment or machinery, or substantial work of  
36 improvement utilized in the hazardous recreational activity out of  
37 which the damage or injury arose.

38 (4) Damage or injury suffered in any case where the public  
39 entity or employee recklessly or with gross negligence promoted  
40 the participation in or observance of a hazardous recreational

1 activity. For purposes of this paragraph, promotional literature or  
2 a public announcement or advertisement which merely describes  
3 the available facilities and services on the property does not in  
4 itself constitute a reckless or grossly negligent promotion.

5 (5) An act of gross negligence by a public entity or a public  
6 employee which is the proximate cause of the injury.

7 Nothing in this subdivision creates a duty of care or basis of  
8 liability for personal injury or for damage to personal property.

9 (d) Nothing in this section shall limit the liability of an  
10 independent concessionaire, or any person or organization other  
11 than the public entity, whether or not the person or organization  
12 has a contractual relationship with the public entity to use the  
13 public property, for injuries or damages suffered in any case as a  
14 result of the operation of a hazardous recreational activity on  
15 public property by the concessionaire, person, or organization.

16 SEC. 2. Section 115800 of the Health and Safety Code, as  
17 amended by Section 1 of Chapter 409 of the Statutes of 2002, is  
18 repealed.

19 SEC. 3. Section 115800 of the Health and Safety Code, as  
20 amended by Section 2 of Chapter 409 of the Statutes of 2002, is  
21 repealed.

22 SEC. 4. Section 115800 is added to the Health and Safety  
23 Code, to read:

24 115800. (a) ~~A local public agency that owns or operates~~  
25 ~~skateboard parks shall have the authority to determine if helmets,~~  
26 ~~knee pads, and elbow pads are an appropriate requirement for use~~  
27 ~~by persons at skateboard parks, or specific areas thereof, which~~  
28 ~~are within the local public agency's jurisdiction. The decision of~~  
29 ~~a local public agency whether to regulate conditions of use at a~~  
30 ~~public skateboard park does not alter a public entity or public~~  
31 ~~employee's immunity from liability to persons who participate in~~  
32 ~~hazardous recreational activities, pursuant to Section 831.7 of~~  
33 ~~the Government Code.~~

34 (b) For purposes of this section, "local public agency"  
35 includes, but is not limited to, a city, county, city and county, and  
36 special district.